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STATE BOARD OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF DENTISTRY

In the Matter of the Suspension :
Or Revocation of the License of :
: Administrative Action
ALBERT F. JOHANN, JR., D.M.D. :
: FINAL DECISION AND ORDER
To Practice Dentistry :
In the State of New Jersey :

This matter was opened to the New Jersey State Board of Dentistry ("Board") upon the filing of a Complaint by John DeCicco, Deputy Attorney General on behalf of Deborah T. Poritz, Attorney General of New Jersey, and the filing of a Notice Of Hearing And Notice To File Answer by Agnes M. Clarke, Executive Director, State Board of Dentistry. The Complaint against Albert F. Johann, Jr. D.M.D. (hereinafter "respondent"), filed on December 4, 1995, alleged in twenty counts that the respondent failed to complete twenty credits of continuing education required for the 1993-1995 biennial licensing period, failed to pay the five hundred (\$500.00) dollar civil penalty which was assessed, and continued to engage in the practice of dentistry during a period his license was suspended.

A formal hearing in this mater was held on January 17, 1996. Deputy Attorney General (hereinafter DAG) John DeCicco appeared on behalf of the complainant, and respondent appeared pro se. DAG DeCicco entered evidence into the record and called as witnesses Agnes Clarke, Executive Director of the Board of Dentistry, and Benedict Riccardi and John Vatasin, State investigators. DAG

DeCicco read each count of the complaint into the record, and respondent answered each count in the affirmative. In mitigation of the allegations which he affirmed, respondent read a letter he had written which described the financial hardships that affected his ability to pay for continuing education courses and the civil penalty, and which motivated him to continue his practice of dentistry despite his suspension.

The Board conducted its deliberations in Executive Session on January 17, 1996 and announced its decision in Public Session on that same date. In consideration of the record herein, the Board makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Albert F. Johann, Jr., D.M.D., license number D1008240, is a licensed dentist in the State of New Jersey and has been a licensee during all times pertinent hereto.

2. On July 22, 1994, the Board issued a Uniform Penalty Letter (UPL) to respondent for failing to complete twenty credits of continuing education between June 1, 1992 and October 31, 1993 as required for the 1993-1995 biennial licensing period. The UPL also assessed a civil penalty of five hundred (\$500.00) dollars for this violation.

3. On July 30, 1994, respondent returned a signed Certification indicating his awareness of the continuing education requirement and indicating that he would complete the requisite twenty hours on or before December 31, 1994.

4. On March 9, 1995, the Executive Director of the Board wrote to respondent and advised him that he had yet to fulfill the

continuing education requirements or to pay the civil penalty owing as a result of that failure. The letter directed respondent to pay the civil penalty of five hundred (\$500.00) dollars within ten days and further stated that his failure to comply with the continuing education requirement would be deemed a first offense.

5. On June 26, 1995, the Board entered a Final Order finding that respondent had failed to complete twenty continuing education credits as required for the 1993-1995 biennial licensing period. Respondent was assessed a civil penalty of five hundred(\$500.00) dollars.

6. On August 8, 1995, the Board authorized the issuance of an Order to Show Cause for the suspension or revocation of respondent's license to practice dentistry, based upon his continuing failure to respond to its Final Order of July 26, 1995 and his failure to complete the requisite continuing education credits.

7. On September 6, 1995, a hearing was held before the Board on the Order to Show Cause as to why respondent's license should not be suspended or revoked for failure to comply with its Final Order of June 26, 1995.

8. Respondent received the Order to Show Cause and the notice of the hearing of September 6, 1995 by certified mail as evidenced by the return receipt. Respondent failed to appear at the hearing, and the matter was prosecuted on behalf of the Board by the Attorney General.

9. On September 20, 1995, the Board entered a Final Decision and Order finding that respondent failed to complete the continuing

education requirement and failed to pay the civil penalty of five hundred (\$500.00) dollars imposed by the Board's Final Order of June 26, 1995.

10. The Board's Final Order provided that respondent's license to practice dentistry in the State of New Jersey was suspended for a period of thirty days effective ten days from the date of its service of the Order on respondent. The Order further provided that respondent should derive no financial remuneration directly or indirectly related to patient fees paid for dental services rendered during the period of active suspension. The Order provided that respondent was assessed a five hundred (\$500.00) dollar civil penalty to be paid within the thirty day active suspension period. In the event that respondent failed to pay the civil penalty within the thirty days, respondent's license to practice dentistry would continue to be suspended until such time as the civil penalty was paid.

11. On September 26, 1995, respondent received the Final Order of the Board by certified mail as evidenced by the return receipt. Therefore, respondent's active suspension became effective on October 5, 1995.

12. Respondent did not pay the five hundred (\$500.00) dollar penalty imposed by the Board's Final Order of September 20, 1995, and his suspension to practice dentistry continued to the date of the complaint.

13. Between October 5, 1995 and November 2, 1995, respondent engaged in the practice of dentistry in the State of New Jersey on twenty separate calendar days by treating numerous persons.

CONCLUSIONS OF LAW

1. Respondent violated N.J.S.A. 45:6-10.1 as modified by N.J.S.A. 45:6-10.6 by failing to complete twenty hours of continuing education credits as required for biennial license renewal for the 1993-1995 biennial licensing period. This was considered to be a first offense and respondent was liable for a civil penalty of five hundred (\$500.00) dollars pursuant to N.J.S.A. 45:6-10.8.

2. Respondent violated N.J.S.A. 45:6-13 by practicing dentistry in the State of New Jersey during a period that his license had been suspended.

3. Respondent violated N.J.S.A. 45:1:21(e) and (h) by his failure to complete his continuing education credits and by his practice of dentistry while his license was suspended.

IT IS ON THIS 13th DAY OF MARCH, 1996,

HEREBY ORDERED THAT:

1. Respondent shall pay a civil penalty in the amount of one thousand, five hundred (\$1,500.00) dollars for practicing dentistry while his license was suspended.

2. Respondent shall pay for the costs of this action in the amount of five hundred (\$500.00) dollars.

3. Respondent shall pay the above penalty and cost, totaling two thousand (\$2,000.00) dollars, in monthly installments of one hundred (\$100.00) dollars per month beginning on April 15, 1996, and every month thereafter on or before the 15th of the month until the total amount is paid. All payments shall be sent to Agnes

Clarke, Executive Director of the Board of Dentistry, at 124 Halsey Street, Sixth Floor, Newark, New Jersey 07102.


4. The twenty (20) credits of continuing education required for the 1993-1995 biennial licensing period are hereby waived.

5. The five hundred (\$500.00) dollar civil penalty assessed for the failure to complete the twenty (20) credits of continuing education required for the 1993-1995 biennial licensing period is hereby waived.

6. By October 1997, respondent shall have completed the forty (40) credits required for the 1995-1997 biennial licensing period. Further, beginning July 1, 1996, respondent must notify the Board office every six months of the courses respondent has taken to fulfill the forty (40) credits requirement.

7. The license of respondent to practice dentistry in the State of New Jersey shall be and is hereby suspended indefinitely upon the entry of this Order; however, the suspension is stayed and respondent may continue in active practice.

8. In the event that respondent fails to complete the required forty (40) credits, the license of respondent shall be revoked.



SAMUEL FURMAN, D.D.S.
PRESIDENT
STATE BOARD OF DENTISTRY